UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

No. 5:08-CV-43-F

EARL L. THORNTON, Plaintiff,)	
v.	ORDE	<u>E R</u>
WAKE COUNTY SHERIFF DONNIE HARRISON, officially; FRANK GUNTER, JAIL ADMINISTRATOR, officially and individually; JOHN DOE #1, officially and individually; JOHN DOE #2, officially and individually,))))	
Defendants.)	

This matter is before the court on the following motions:

DE-23 - Plaintiff's Motion for Summary Judgment

DE-34 - Defendants' Motion for Summary Judgment

DE-38 - Defendant's Motion to Strike Notice

DE-44 - Plaintiff's Motion to Compel Discovery

DE-45 - Plaintiff's Motion for Judgment on the Pleadings

The court has read and considered each of the pending motions, the responses in opposition thereto, and affidavits submitted in support of the parties' respective positions. The court finds that there is no genuine issue of material fact necessitating a trial, in that the affidavit of Frank Gunter filed in support of the defendants' Motion for Summary Judgment is un-refuted by any competent evidence creating a genuine issue of material fact, the resolution of which in plaintiff's favor would entitle him to judgment. Furthermore, for the reasons cogently set forth in the defendants' Motion for Summary Judgment and incorporated Memorandum, [DE-34], the defendants are entitled to judgment as a matter of law.

Therefore, the court ADOPTS the defendants' Motion and Memorandum [DE-34], and concludes that the defendants are entitled to summary judgment pursuant to Rule 56, Fed. R. Civ. P. The defendants' Motion for Summary Judgment [DE-34] is ALLOWED and this action hereby is DISMISSED. All other pending motions [DE-23, -38, -44, -45] are DENIED as moot. The Clerk of Court is DIRECTED to close this case.

SO ORDERED.
This the 315 day of July, 2009.

JAMES C. FOX Senior U.S. District Judge